

Economic Impact Statement

LSA Document #14-235

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

VHS is an extremely serious pathogen of fresh and saltwater fish that has been found in the waters of Lake St. Clair, Lake Erie, Lake Ontario, Lake Michigan, the St. Lawrence River, and an Ohio reservoir south of Lake Erie. In the United States and Canada, recent outbreaks of this disease are responsible for die-offs in many freshwater species in the Great Lakes watershed.

In April 2014, the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) announced that it was lifting the VHS Federal Order that was first issued in 2006 in response to an outbreak of the fish disease in the Great Lakes region.¹ After studying the disease, conducting surveillance, and evaluating the latest science, APHIS determined it can safely remove the federal order as long as states maintain existing VHS regulations and other practices to reduce risk.

Effective June 2, APHIS no longer prohibits or restricts the interstate movement of VHS-susceptible species of live fish from VHS-affected or at-risk states, including: Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin. It is APHIS's position that the federal order has become duplicative with state regulations.

The state of Indiana is the only Great Lakes state that does not have existing VHS regulations. Therefore, in order to align with other states and protect the state's aquatic resources, BOAH is proposing to require VHS-susceptible species of live fish moved into the state to obtain a permit and, if the fish are from VHS-affected or at-risk regions, to have tested negative for the VHS virus using the appropriate standards and methods. The testing documentation must accompany the fish during movement and be maintained for two (2) years. These proposed testing standards align with the rescinded federal order. Therefore, the BOAH is not proposing to change the procedures currently being followed by the industry in order to ship fish in interstate commerce.

1. Description of Affected Industry

Although this rule directly impacts out-of-state importers of fish, BOAH estimates that there are approximately three private aquaculture farms in the state that regularly purchase fish from these importers. This estimate is based upon the import information currently maintained by the BOAH, which has been obtained through our role in assisting the industry to comply with the federal order. The BOAH also occasionally works with private individuals that are seeking to import fish to put in their farm ponds as well as conservation groups stocking fish into public waters.

The in-state farms will be indirectly affected by the rule due to increased compliance costs for the importer, which may be passed on in the form of higher purchase prices for the fish. However, it is likely that many of these facilities already conduct testing in order to comply with other states' regulations, so Indiana's rule may have no impact on their testing regimens and fish prices. It is also important to emphasize that, although the rule directly impacts only three farms, there are many other aquaculture farms in the state that do not import fish but will nevertheless benefit from this testing standard due to reduction of the risk of introduction of the pathogen into the state.

The Indiana Department of Natural Resources (DNR) produces approximately 22 million fish annually to increase fishing opportunities in public waters across the state. The agency estimates that they spend approximately \$10,000 annually on VHS testing of fish produced at eight state fish hatcheries. VHS testing at state hatcheries is part of a comprehensive pathogen monitoring program to track and manage fish health and disease management to ensure the safe and quality performance of stocked fish. The Purdue University research laboratory also periodically brings in fish from outside sources.

Although BOAH does not currently have a VHS rule, it is important to emphasize that since 2006 BOAH staff has been working closely with the aquaculture industry to assist them in complying with the federal order. Specifically, BOAH veterinarians have assisted Indiana fish producers with their biosecurity plans and submitting fish samples for testing so they can export their fish to out-of-state customers. The assistance from BOAH veterinarians has played a critical role in growing the aquaculture industry because, although there has been progress made in engaging veterinarians with an interest in fish health, there are still few veterinarians in the state that provide these services.

BOAH has worked to involve regulated entities in the development of the rule. For example, BOAH has reached out to the Department of Natural Resources and to the Indiana Aquaculture Association to receive their feedback regarding what standards are appropriate to minimize the risk of the introduction of the virus.

2. Estimated Annual Reporting, Record Keeping, and Other Administrative Costs

The rule does include an additional record keeping requirement for regulated entities. The proposed rule requires permit and testing records to be maintained by the person responsible for moving the fish for two years.

Because the vast majority of facilities moving fish in interstate commerce are already maintaining movement and testing records, BOAH does not consider the proposed rule to create a significant administrative expense for these entities.

3. Estimated Total Annual Economic Impact on Small Businesses

To provide flexibility for the industry, BOAH is proposing to provide the option of testing according to the Bluebook standard or the OIE standard. The OIE standard is a certification of the overall farm, which is most cost effective for individuals shipping larger amounts of fish. Alternatively, a person can choose to test each lot of fish according to the Bluebook standard. In 2013, there were three farms that moved fish into the state from VHS affected or at-risk area based upon their overall farm testing. There were approximately 30 lots of VHS-susceptible species of fish shipped from VHS at-risk or affected areas that were tested in order to move into the state.

Because the federal order only applied to shipments from at-risk or affected areas, the BOAH does not have an estimate of the total number of VHS susceptible species moved into the state from all areas. However, because the agency is proposing the testing requirement only for fish imported from an at-risk or affected area, this is the appropriate estimate to use for purposes of calculating the total annual economic impact.

The cost to certify a lot of fish under the Bluebook standard is in the range of \$360 - \$500. The annual cost to maintain a certification on a facility under the OIE standard is in the range of \$1,700 - \$2,700. Therefore, the estimated total annual cost of compliance for those using the lot test is \$10,800 - \$15,000. The estimated total annual cost of compliance for those using the overall facility test is \$5,100 - \$8,100. When combined, the estimated annual cost of compliance for all regulated entities is \$15,900 - \$23,100.

It is important to emphasize that this testing requirement aligns with many other states, whose regulations mirror the recently rescinded federal order. Therefore, the testing standards BOAH is proposing are well-established, routine procedures for shipping fish throughout the US. The BOAH is also proposing to follow the OIE standards, which allow producers to decrease their testing frequency based on test history and biosecurity plans in place on the farm. Although this rule directly impacts out-of-state importers of fish, the ability to reduce testing frequency would reduce compliance costs, which would likely be passed on in the form of cost savings to the Indiana producers purchasing the fish. It is also important to consider the potential cost savings related to reducing farmed and wild fish exposure to disease and protecting business markets, which are discussed above.

The proposed rule requires a permit for shipments of VHS susceptible species of live fish from all areas. However, there is no cost involved in the permit requirement. In order to ease the burden of compliance, the BOAH provides the ability to submit a request for a permit by phone or electronically at our website.

4. Justification of Requirements

a. Compliance with State Law

The proposed rule is necessary to address an urgent matter of animal health. It is a duty of the BOAH to control the movement of animals into, out of, or within Indiana in order to prevent, detect, or control animal diseases. [IC 15-17-3-13](#)(4). In order to carry out this duty, it is critical to ensure that appropriate disease testing requirements are in place for the import of each species.

b. Justification of Requirements Not Mandated by Federal Law

If the BOAH does not establish a testing requirement for the import of VHS-susceptible fish, it could have negative consequences for Indiana's growing aquaculture industry. According to a 2012 Purdue study, there were about 40 active fish producers in the state with total estimated farm sales of over \$15 million dollars.² Every day, these businesses are moving fish into and out of the state in interstate commerce. A VHS testing requirement that aligns with other states ensures that the fish being imported to Indiana are free of this disease and will not transmit it to other fish, which would have potentially devastating effects on Indiana aquaculture operations and their business investments.

In addition to the above-stated benefits of this rule to the business competitiveness of our aquaculture industry, it also directly benefits our state's natural resources. If the BOAH does not proceed with the proposed rule, it could negatively impact the recreational fishing that occurs in our lakes, rivers, and streams. According to DNR, the recreational fishing industry has a \$750 million dollar annual economic impact for the state. A VHS testing rule plays a critical role in reducing the risk of introduction of this pathogen into waters of the state.

5. Regulatory Flexibility Analysis

BOAH did examine alternative approaches used in other states, such as requiring VHS testing for all VHS-susceptible species regardless of the state of origin. Some states have taken this approach because fish may be present in a non-affected state that actually originated from an affected state. However, after involving regulated entities, the BOAH made a determination to limit the testing requirements to affected or at-risk regions. The BOAH determined that this approach maintained the appropriate balance between mitigating the risk of

introduction of the disease while also ensuring that burdensome compliance costs are not imposed on the industry. It is also important to note that BOAH has the ability to consider the circumstances related to a proposed import of fish from a non-affected state through the permit process.

The agency also considered whether it would be appropriate to not implement a testing requirement and allow the seller and purchaser to negotiate what testing standards they deem appropriate. However, like many other potentially devastating animal diseases, the private sector relies upon the states to have uniform testing standards in place to protect their businesses investments. It is also important to consider the critical interest the state has in protecting its aquatic resources.

¹ United States Department of Agriculture (USDA) Amended Federal Order, *Viral Hemorrhagic Septicemia*, April 2, 2008.

² *Economic Importance of the Aquaculture Industry in Indiana*, Purdue Extension, June 2013.

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